

SEEGER WEISS LLP

David R. Buchanan, Esq.
550 Broad Street, Suite 920
Newark, NJ 07102-4573
Tel. (973) 639-9100
Fax (973) 639-9393

**ANAPOL, SCHWARTZ, WEISS, COHAN
FELDMAN & SMALLEY, P.C.**

David Jacoby, Esq.
402 Park Boulevard
Cherry Hill, NJ 08002
Tel. (856) 427-9229
Fax (856) 488-1396

FILED

AUG 16 2005

CAROL E. HIGBEE, J.S.C.

Plaintiffs' Liaison Counsel

IN RE: VIOXX LITIGATION

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: ATLANTIC COUNTY

CASE No.: 619

CASE MANAGEMENT ORDER

APPLICABLE TO ALL CASES

THIS MATTER having been brought before the Court at a case management conference
on July 28, 2005, and counsel for plaintiffs and counsel for defendant having been present and
for good cause shown,

IT IS on this 16 day of Aug, 2005,

ORDERED as follows:

1. Merck & Co., Inc. ("Merck") shall produce the VIOXX® information from the MAX database by September 1, 2005.

2. *Martin/Kleinman v. Merck & Co, Inc.* (the "End-User Consumer" case)

a. Plaintiffs shall provide to Merck properly completed Plaintiff's Fact Sheets, together with any responsive medical records and executed medical records releases for all named plaintiffs in the *Martin/Kleinman* actions by August 22, 2005.

b. Merck shall file its opposition to Plaintiffs' Motion for Class Certification in the *Martin/Kleinman* action by October 17, 2005. Plaintiffs shall file their reply by November 7, 2005.

3. In any estate action in which the plaintiff requested 120 days to complete the appointment of an administrator, plaintiff shall have no more than 90 days from the date of entry of an Order granting leave to amend the complaint. Further, in all estate actions, plaintiffs shall provide Merck copies of any letters of administration upon receipt.

4. Merck shall produce those case-specific documents requested by Plaintiff Mary Campbell in Plaintiff's Request for Production of Documents that it has agreed to produce in *In re: VIOXX Products Liability*, MDL Docket No. 1657 by August 12, 2005. Ms. Campbell shall submit to deposition by August 29, 2005.

5. The Court hereby amends Paragraph 6 of its July 13, 2005 Case Management Order to read as follows:

By September 9, 2005, Merck shall provide FACTS data for every case filed after September 30, 2004 for which Merck received, by June 15, 2005, a Plaintiff's Fact Sheet that correctly identifies the name and address of the prescribing physician.

6. Merck shall file a request for an Order of Commission and Commission Authorizing the Issuance of an Out-of-State Subpoena, under New Jersey's Five-Day Rule, to

obtain copies of echocardiograms and medical records pertaining to David Pitcher previously withheld by Cardiology Consultants.

7. Jan Weiner shall appear for deposition on August 10, 11, and 12, 2005. Plaintiffs shall make every effort to complete the deposition of Ms. Weiner within two days. If plaintiffs state that they have not finished at the conclusion of the deposition on August 11, the parties will immediately call the Court, which will determine whether the plaintiffs can have any time on August 12.

8. The following witnesses shall appear for deposition on the dates listed below:

| Name | Date | Restrictions |
|-------------------------|--------------------------------------|---------------------------------------------------------------------------------------------------------------------------------|
| Dr. David N. Sim | August 4, 2005 | 2 hours discovery, 1 ½ hours to plaintiffs, and 1 ½ hours to defendant (No videotape during discovery portion of deposition) |
| Dr. Graham K. Weatherly | August 5, 2005 | 1 hours discovery, 1 ½ hours to plaintiffs, and 1 ½ hours to defendant (No videotape during discovery portion of deposition) |
| Dr. David Egilman | August 5, 2005 | 4 hours, no videotape |
| Dr. Richard Kronmal | August 12, 2005 | No videotape |
| Dr. Nicolas DePace | To be determined | 3 hours, no videotape |
| Thomas Nesi | Week of August 22 or August 29, 2005 | No videotape |

9. The parties shall file any motions under Rule 702 of the New Jersey Rules of Evidence by August 8, 2005. Merck may submit a supplemental brief covering anything pertaining to any 702 challenge to Dr. Kronmal by August 15, 2005. Both parties' opposition briefs shall be filed by August 24, 2005. The parties' reply briefs shall be filed by August 29, 2005. Any defense motion relating to the admissibility of Mr. Nesi' testimony should be filed by August 30. Oral argument on the parties' motions regarding the admissibility of expert

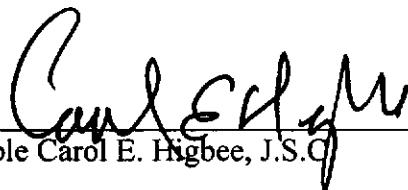
testimony, except for any motion related to Mr. Nesi, shall be heard on September 2, 2005.

Argument on any motion related to Mr. Nesi shall be scheduled before Mr. Nesi testifies.

10. Whenever a complaint is filed by an administrator or other duly appointed representative on behalf of the estate of another, plaintiff's counsel shall provide defense counsel with a copy of the appointment papers with the plaintiff's fact sheet response.

11. The fact discovery end-date for the second wave of trials cases is October 1, 2005.

12. In the matter of *Humeston v. Merck & Co., Inc.*, jury pre-charges, jury charges, and descriptions of the case are due August 26, 2005.



Honorable Carol E. Higbee, J.S.C.